

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHNNY ALBERTO SOSA DE LOS SANTOS,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

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BLOOM, United States Magistrate Judge:

On August 19, 2009, plaintiff filed a motion to amend. See docket entry 10. On September 3, 2009, the Court held an initial pretrial telephonic conference and discussed plaintiff's motion to amend his complaint. See Tr., September 3, 2009; docket entry 17. By letter dated September 16, 2009, plaintiff requests that the Court proceed on his amended complaint withdrawing his claims as to the individual defendants and substituting in the United States of America. See docket entry 16.¹ Defendants' counsel does not oppose plaintiff's motion to amend, withdrawing his claims against the individual defendants and substituting the United States as the defendant, however counsel requests that the Court dismiss the individual defendants with prejudice. See docket entry 14.² Plaintiff's request to amend his complaint is granted. As no claims remain against the individual defendants, defendants' counsel's request to dismiss plaintiff's claims against the individual defendants with prejudice is denied.

¹ Plaintiff has listed his current address in the Dominican Republic and provided the Court with a phone number where he may be reached. See docket entry 15.

² Plaintiff states in his amended complaint that he is currently exhausting his remedies as to his "Bivens" claims under the Prison Litigation Reform Act and will consolidate his claims in the future. See docket entry 10 at 2.


FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ NOV 25 2009
P.M. *[Signature]*
TIME A.M. *[Signature]*
ORDER
09 CV 1516 (ENV)(LB)

[Handwritten signature]

The Clerk of Court shall file plaintiff's "Motion to Amend" as his Amended Complaint; the individual defendants shall be terminated and the United States of America shall be added as the sole defendant. See docket entry 10. Defendants' counsel shall notify the Court by November 30, 2009 whether the United States Attorneys Office shall accept service of the amended summons and complaint on behalf of the United States.

The United States has made clear that it intends to move to dismiss plaintiff's amended complaint and the Court sets the following schedule: defendant shall respond to plaintiff's complaint by January 29, 2010; plaintiff shall oppose defendant's motion by serving defendant's counsel by March 1, 2010. Defendant shall serve any reply and file the fully briefed motion electronically by March 15, 2010. Should plaintiff fail to oppose defendant's motion by March 1, 2010, defendant shall electronically file its motion and the Court shall consider it unopposed. Plaintiff may contact the Court's Pro Se Office at (718) 613-2665 for directions regarding how to oppose a motion.

SO ORDERED.



LOIS BLOOM
United States Magistrate Judge

Dated: November 24, 2009
Brooklyn, New York